

**ZONING BOARD OF APPEALS MEETING MINUTES - FINAL**  
**WEDNESDAY, FEBRUARY 18, 2004**

**MEMBERS PRESENT:**

Ross Williams, Chairman  
Rocky Mancini  
Guy Russell

**MEMBERS ABSENT:**

Paul Hughes  
Janine Maskell

**ALSO PRESENT:**

Al LoBrutto, Town Board Liaison  
Lauren Kingman, Chair, Planning Board

Chairman Williams opened the meeting at 7:00 p.m.

1. Administrative Items

- Chairman Williams introduced the new board members.

2. Correspondence

- From Sierra
- Dutchess County Land Conservancy ref: easements in Milan
- ZBA Year End Report for 2003
- ZBA Year End Fees Collected for 2003
- Talk of the Towns

3. George Carrothers appeared representing his variance application on property located on a three acre parcel on Route 199. Mr. Carrothers said he is renovating an existing building into a restaurant. He showed where the existing building and trailer are located on Moorehouse Road. He is in the process of working with the state regarding the entrance. They have said they would like no egress onto Route 199. Mr. Carrothers said he needs a variance for the setback for the trailer, a special permit for the trailer, and a variance for the setback on the existing structure. There will be 4,000 square feet when this is done. The setback has to be 75 feet and he is currently at 63 for the existing building. Visually, Mr. Carrothers said he thinks separating the parking lots would be more aesthetically pleasing so he tucked a parking lot up in the corner. He does not need variances for the parking. As far as for the existing building and trailer, it would be approving an existing condition. Mr. Carrothers said Al Smith has lived in the trailer for 14 years, he is 82 and lives on social security. He will live there until the trailer is no longer needed. At that time, Mr. Carrothers would remove it. It needs a special permit because it exists and was supposed to have one years ago. This was put in in the 70's prior to zoning. At some point, the town legislated that all mobile homes had to be updated and existing mobile homes need a special permit. Mr. Williams said he has concerns about a trailer as a residence on a commercial highway business property which makes this a dual use property. Continuing that, we would not expect to find a separate

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residence in highway business, normally. Mr. Williams thinks this involves more than a permit for a mobile home; possibly a special permit for an accessory apartment. An accessory apartment in a commercial area is normally in the commercial structure; the code is not written to have it as a separate structure. We have to look at the flexibility of this and how we could accommodate that. Mr. Carrothers would like to allow Al Smith to stay there until he no longer needs it at which time he would remove it. It is a 3 acre parcel of land. Mr. Carrothers said he may replace the trailer with a 12 square foot building that was a commercial structure. Mr. Carrothers said the other issue is that this is 1 acre zoning. He does not think it is not in the town's or his best interest to divide this into three one acre lots which would allow a 5000 square foot building on one acre lot which would greatly increase the density of this property. A compromise is to allow Al Smith to stay there. Again, when the trailer is no longer needed, it will be removed and Mr. Carrothers said he may want to replace it with a stick built structure that is commercial without subdividing the property. Mr. Williams said that is a separate issue for Planning. Mr. Carrothers can't go to the Planning Board until he gets the variances and the special permit. Mr. Kingman, Planning Board Chairman, said since the mobile home predates with nothing new, the special permit could be granted with special conditions. A mobile home on an individual lot is permitted. The only way it could exist on a lot with a commercial building is if it were an accessory apartment. So, Mr. Carrothers is really asking for one special use permit for an accessory apartment and two setback variances, one from the road for 63 feet and one from the right-of-way for 51.4 feet since the front yard setback requirement in highway business is 80 feet. The map needs to have the setbacks noted on it. A short form EAF has been submitted and Mr. Carrothers said the town engineer looked at it and approved it a couple of years ago. Mr. Carrothers said board members can go out to visit the site and check the flags. Mr. Williams reviewed the EAF form.

Mr. Russell motioned that the Zoning Board of Appeals schedule Mr. Carrothers for a public hearing at the next meeting scheduled for March 15<sup>th</sup>, Mr. Mancini seconded. . All aye. Motion carried.

4. Ron White was present and said he purchased the Hapeman property on Becker Hill Road. When he was looking through the paperwork, he found out that in order to keep the existing two family dwelling and the mobile home on the property, he has to apply for a special permit. Mr. Williams told the board that this property backs up against Niagara Mohawk and it was subdivided to sell off 3 acres. The property has a mobile home and a two family house. Mr. White, when asked what the buildings are being used for, said he lives in the main house downstairs and his brother lives upstairs. At present, the trailer is being worked on and they plan on renting it out around spring time. Mr. Williams said if the mobile home is ever replaced, there are requirements that need to be met under zoning for that but at this time, they are not replacing it, just maintaining it. Mr. Kingman said the mobile home has a special permit for an accessory apartment. Mr. White submitted an application which Mr. Williams reviewed with him. Mr. Williams reviewed the short EAF form and completed it.

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Mr. Williams motioned that the ZBA declare a negative declaration for SEQRA for the White application, Mr. Russell seconded. All aye. Motion carried. Mr. Russell motioned that the White application be scheduled for a public hearing at the next ZBA meeting scheduled for March 15<sup>th</sup>, Mr. Mancini seconded. All aye. Motion carried..

5. Michael DelPercio appeared to discuss possibly moving his property line or subdividing to accommodate an existing pool. After some discussion between Mr. DelPercio, the ZBA, and Mr. Kingman, it was determined that if leaves everything the way it was approved previously by the Planning Board, he would not need any additional approvals. The final survey has to go back to the Planning Board. There was no action taken at this meeting.
6. Discussion Items
  - Chairman Williams distributed a hand out relative to operating procedures for the board and described the process the ZBA follows and the difference between area and use variances.
  - Land Use Training and Certification Diskette for Board Certification - This is not required but nice to have. If enough members pass the test, the board becomes certified.
  - Mr. Williams brought members up to date on the Hudson Valley Club proposal. There is a special meeting of the Pine Plains Planning Board scheduled for February 24<sup>th</sup> at which time they will do a final review of the scoping document in connection with SEQRA.
  - There is a Greenway Compact meeting on February 24<sup>th</sup> at the town hall and speakers from the Greenway and Dutchess County Planning will be present to provide information.
  - Dennis Clancy, Building Inspector and ZEO, has been authorized by the Town Board to contact all highway businesses to make sure they are aware of the requirement to come into compliance with zoning within five years and to provide steps to enable them to be in compliance prior to the deadline.
  - Possible zoning issues coming up:
    - Chestnut Mart of Milan on Route 199 will require some variances at some point.
    - Substandard lot approval
    - Use of a property, ag, storage, etc. which may come in as an interpretation.
    - Operating practices for the board - things to think about - i.e.- completed applications due in so many days prior to the meeting, public input, etc.

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Mr. Russell motioned to adjourn at 8:15 p.m., Mr. Mancini seconded. All aye. Motion carried.  
The next meeting is scheduled for Monday, March 15, 2004 at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Town Clerk (final copy)